Supreme Court, U.S.
FILED
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(9)

No. 99-1964

In The

Supreme Court of the United States

TIMOTHY BOOTH,

Petitioner,

v.

C.O. CHURNER, *et al.*,

Respondents.

On Writ Of *Certiorari* To The United States Court Of Appeals For The Third Circuit

JOINT APPENDIX

NANCY WINKELMAN*
JOSEPH T. LUKENS
RALPH N. SIANNI
BRUCE P. MERENSTEIN
SCHNADER HARRISON SEGAL & LEWIS LLP
1600 Market Street, Suite 3600
Philadelphia, PA 19103
(215) 751-2000
Counsel for Petitioner

**Counsel of Record*

D. MICHAEL FISHER
JOHN G. KNORR, III*
CALVIN R. KOONS
GWENDOLYN T. MOSLEY
OFFICE OF ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 787-1144
Counsel for Respondents

Petition For Certiorari Filed June 5, 2000
Certiorari Granted October 30, 2000

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Booth v. Churner et al.

RELEVANT DOCKET ENTRIES

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
No. 97-CV-611

Date	Event
April 21, 1997	Complaint alleging violation of civil rights – prison conditions.
April 28, 1997	Motion by plaintiff Timothy Booth for protective order.
May 7, 1997	Motion with brief in support by plaintiff Timothy Booth to proceed in forma pauperis and for appointment of counsel with proposed order.
May 12, 1997	Motion by plaintiff Timothy Booth to proceed in forma pauperis and for appointment of counsel.
May 19, 1997	Motion by plaintiff Timothy Booth for affirmative order records and plaintiff petition to show cause.
May 20, 1997	Amendment to specific relief by plaintiff Timothy Booth to complaint.
May 30, 1997	Order by Judge William J. Nealon – 1) The complaint is dismissed without prejudice for failing to exhaust administrative remedies; 2) the motions filed subsequent to the filing of complaint are dismissed as moot; 3) the Clerk of Court is directed to close this case. Case terminated.
June 18, 1997	Motion by plaintiff Timothy Booth for preliminary injunction.

June 18, 1997	Affidavit of Timothy Booth with exhibits attached.
July 3, 1997	Order by Judge William J. Nealon that: 1) Doc 18 is construed as a motion for reconsideration and a brief in support thereof; 2) Booth's motion for reconsideration is denied.
July 7, 1997	Motion by plaintiff Timothy Booth to amend complaint.
July 8, 1997	Order by Judge William J. Nealon finding motion for appointment of counsel moot; finding the motion for preliminary injunction moot, as plaintiff's case was closed on 5/30/97.
July 11, 1997	Notice of appeal by plaintiff Booth from 7/3/97 order.
July 17, 1997	Order dismissing motion as moot, as plaintiff's case was closed 5/30/97.
August 6, 1997	Notice of appeal by plaintiff Timothy Booth from 7/17/97 order.
October 10, 1997	Notification by Circuit Court of Appellate Docket Number 97-7487.
October 10, 1997	Notification by Circuit Court of Appellate Docket Number 97-7488.

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
C.A. Nos. 97-7487, 97-7488

Date	Event
September 9, 1997	Notice of appeal filed by Timothy Booth.
September 9, 1997	Civil case docketed.
September 9, 1997	Order consolidating appeals at Nos. 97-7487 and 97-7488.
October 9, 1997	Brief on behalf of appellant Timothy Booth (pro se). Certificate of service dated 10/9/97.
December 5, 1997	Motion by appellant Timothy Booth for preliminary injunctive transfer for protection.
March 6, 1998	Order terminating appeal without judicial action pursuant to Local Appellate Rule 3.3 and Local Appellate Rule Misc. 107.1(a).
March 6, 1998	Affidavit by appellant in support of motion to proceed in forma pauperis.
April 1, 1998	Motion filed by appellant Timothy Booth to reopen appeal.
April 15, 1999	Order granting motion to reopen; directing that Clerk appoint counsel.
April 15, 1999	Order appointing Nancy Winkleman, Esq. to represent appellant.
June 1, 1999	Brief and appendix on behalf of appellant Timothy Booth. Certificate of service dated 6/1/99.

July 13, 1999	Brief on behalf of appellees W. Gardner, Rikus, Workensher and Churner. Certificate of Service dated 7/13/99.
July 13, 1999	Reply Brief on behalf of appellant Timothy Booth. Certificate of service dated 7/30/99.
September 27, 1999	Argued before Becker, Chief Judge, McKee and Noonan (sitting by designation), Circuit Judges.
March 7, 2000	Opinion (Becker, Authoring Judge, McKee, and Noonan, Circuit Judges), with a separate concurring and dissenting opinion by Judge Noonan.
March 7, 2000	Judgment affirming the orders of the district court. Costs taxed against the appellant.
March 29, 2000	Mandate issued.
May 11, 2000	Reported at 206 F.3d 289.
June 12, 2000	Notice from Supreme Court of United States advising of petition for writ of certiorari filed by appellant Timothy Booth at Supreme Court number 99-1964.
August 28, 2000	United States Supreme Court letter dated 8/22/00, requesting the entire record.
September 12, 2000	Certified copy of briefs, appendices and partial proceedings sent to Clerk of Supreme Court of the United States.

November 2, 2000 United States Supreme Court order dated 10/30/00 at Supreme Court number 99-1964, granting petition for writ of certiorari by appellant Timothy Booth in nos. 97-7487, 97-7488.

FORM TO BE USED BY PRISONERS
IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 USC § 1983

Filed April 21, 1997

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Timothy Booth
CN-3556

(Enter above the full name of the plaintiff or plaintiffs in this action)

vs. 3: CV 97-0611

c/o Churner
Sgt. Workensher
Lt. Rikus
Capt. W. Gardner
(Enter above the full name of the defendant or defendants in this action)

I. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes ✓ No

B If your answer to A. is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

2 Austin v. D.O.C. Class Action also

1 Crule and unusual punishment
Indiff. Medical

1. Parties to this previous lawsuit

   Plaintiffs: Timothy Booth

   Defendants: Sgt. Robinson c/o Thomas Warden Biviano Super. Morgan M. Weaver next Super Morgan M. Knott Program Dir.

2. Court (if federal court, name the district: if state court, name the county).

   Huntingdon Pa County

3. Docket Number Haven't recieved the other. unsure of its number

4. Name of judge to whom case was assigned:

   Unknown

5. Disposition (for example: was the case dismissed? Was it appealed? Is it still pending?)

   Still pending

   Still pending

6. Approximate date of filing lawsuit: 3-97 1-97

7. Approximate date of disposition: Unknown

Place of Present Confinement: Smithfield Prison Huntingdon Pa.

A. Is there a prisoner grievance procedure in this institution? Yes ✓ No

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure? Yes ✓ No

C. If your answer is YES:

   1. What steps did you take? Complained and ask for help.

2. What was the result? Refuse or disimmed and covered up.

D. If your answer is NO, explain why not: There isn't any help because of retaliation because I spoke up about abuse and condition

III. Parties

(In Item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any)

A. Name of plaintiff Timothy Booth CN-3556
Address 1120 Pike Street Huntingdon PA 16652

(In Item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use Item C for the names, positions, and places of employment of any additional defendants).

B. Defendant c/o Churner is employed as Correctional officer at

C. Additional Defendants: Sgt. Workensher and Lt. Rikus

Also Captin Garnder, Superindtent Morgan

IV. Statement of Claim:

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheet if necessary).

RELIEF

State briefly exactly what you want the court to do for you.

Make no legal arguments. Cite no cases or statutes.

First protective order for transfer to another prison please my safety and life is at stake order preliminary injunction

* * *

[Grievance Response Attached as Exhibit to Complaint]

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

OFFICIAL INMATE GRIEVANCE INITIAL REVIEW RESPONSE			GRIEVANCE NO. SMI-079-97
TO	INSTITUTION	QUARTERS	GRIEV.
T. Booth	SCI-Smithfield	H-BLK.	DATE
CN3556			3-12-97

You mentioned no specific allegations in your grievance, therefore, staff had no basis to conduct an investigation.

It is noted, however, that you have claimed abuse by officers in the past and investigation has always reflected false claims. There is no indication that you have been abused in this case either. Your grievance is dismissed.

* * *

Refer to DC-ADM 804 Section VIII, for instructions on grievance system appeal procedures.	SIGNATURE OF GRIEVANCE COORDINATOR /s/ Sharon M. Banks	DATE 03/13/97

* * *

[Handwritten Attachment to Complaint]

* * *

3. No physical brutality by prison staff
   8th Amendment – cruel and unusual punishment

* * *

4. Decent Conditions in Prison

* * *

5. The Right to decent medical care

* * *

6. Injunction

   *Prison being locked up without any hearing (danger of re-current violation)

   *State violates federal right liable to injured suit in equity an action at law (M. Damages $) action at law and a suit equity

   A recurrent violation *Inmates of Attica v. Rockefeller,* 453 F.2d 12, 23 (2nd Cir. 1971)

   * "No adequate remedy at law" Also "irreparable injury"

* * *

7. Affirmative Orders

* * *

Damages money

A. Compensatory damages (pain and suffering)
   Nominal Damages (mental anguish)

* * *

3. Damages from the Government

* * *

[Grievance Response Attached as Exhibit to Complaint]

DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

OFFICIAL INMATE GRIEVANCE INITIAL REVIEW RESPONSE			GRIEVANCE NO. SMI-103-97
TO	INSTITUTION	QUARTERS	GRIEV. DATE
T. Booth CN3556	SCI-Smithfield	H-BLK.	3-05-97

This grievance is a duplicate of your grievance SMI-079-97 received on 2/14/97. Grievance SMI-079-97 response was furnished on 2/21/97. In both grievances you request protective custody. You are already in disciplinary custody which is, a very secure housing. Your grievance is denied.

[Handwritten on form] This is were the beating and assaults happened and are happening to me.

* * *

Refer to DC-ADM 804 Section VIII, for instructions on grievance system appeal procedures.	SIGNATURE OF GRIEVANCE COORDINATOR /s/ Sharon M. Banks	DATE 03/05/97

[Grievance Attached as Exhibit to Complaint]

PART 1 COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. Box 598
Camp Hill, PA 17001-0598

OFFICIAL INMATE GRIEVANCE	GRIEVANCE NO. SMI-108-97
TO: GRIEVANCE COORDINATOR Mr. Mathis	INSTITUTION SCIS
	DATE 2/19/97
FROM: (Commitment Name & Number) Timothy Booth CN-3556	INMATE'S SIGNATURE /s/ Timothy Booth
WORK ASSIGNMENT None	QUARTERS ASSIGNMENT H

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.

2. State your grievance in Block A in a brief and understandable manner.

3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

I put in a slip to Capt. Glenny to be seen for and assault that happened but was never seen.

I'm asking to be heard for this wrong. Also I'm seeking to utilize DC-ADM-004. I'm request this right as provided by the inmate hand book. Please I have the right to be in a place that my safety is not in jeopardy.

B. Actions taken and staff you have contacted before submitting this grievance:
[Illegible]

Your grievance has been received and will be processed in accordance with DC-ADM 804.

/s/ Sharon M. Banks — 2/25/97
Signature of Grievance Coordinator — Date

[Handwritten Attachment to Complaint]

To Whom It May Concern

4-96 – I was assaulted by a Sgt. Robinson and a c/o name Thomas. As of that assault I've a shoulder that slips in and out from this assault. I was seen by the a doctor and was told I would get a operation on my shoulder. I waited and complained but never did I receive it; as a result of my complaining on 2-97. I was told that I wouldn't get the operation because of some administrative problem. Deliberate indifference to my shoulder and back.

On 2-6-97 I'd some problem with one of the officer who assaulted me. I was not given dinner meals a couple of times also I throw water on that officer for a few words he spoke and I was taken out of my cell handcuffed. I was taken to the storage room where officer Thomas threw a cup cleanning material in my face and then placed in an shower still cuffed until they search my I was written up for attempting to spit on this officer.

On 2-7-97 I called Sgt. White and ask could I see a Lt. Rikus about get my tray. Lt. Rikus came on the block and went into the property room – words was exchanged and Lt. Rikus said he should back hand slap me I said go ahead. He grabbed my arm and shoved me into the shelf in the storeage room. Sgt. White look on, but officer Thomas pushed me into a door. I hit the side of my face on the shelf. White then grabbed my arm a took me out of the room and place me in my cell and close the door. He told Thomas to uncuff me. He grabbed the cuffs and began to tighten and twist them. I put my foot on the cell door and pushed off I got free of Thomas and he shut the

tray slot and I was left like that for 1/2 hour. Then c/o Walton came and uncuffed me and I ask to see an doctor. He was brought and looked at my face and the bruises on my wrists. I got pain reliever and nothing else this cause my shoulder to hurt more.

I was moved of that unit about 3 weeks later and moved to another unit. On 3-23-97 at 7:00 these of officer came to my cell and ask was me and my cell partner was ready to go to the law library. They strip search my cell partner first and then took him into the library. They took me into the room to get search. c/o Kuhan, c/o Chuner and Sgt. Workensher, c/o Chuner told me to face the wall I did as I was told. He uncuffed one hand and ask did I spit in officer White face I said no. He then punched face and mouth. The other watched and they grabbed me. c/o Kuhan put me in a choke hold and forced me to the floor. Sgt. Workensher put his hand on my back and cuffed the other then took me back to my cell. I ask to see a doctor because I was in pain because of the attack in which my mouth was busted open.

The doctor came and looked at me. He order the guards to take me over to the hospital for me to get 3 stitches in my mouth.

I need out of this jail before the kill me, and I want each and every officer to be punished for assaulting me.

Please I'm in fear of my life. Timothy Booth CN-3556

AFFIDAVIT FOR SHOW OF CAUSE FOR EMERGENCY PRELIMINARY INJUNCTION AND PROTECTIVE ORDER

Filed April 28, 1997
[Caption Omitted in Printing]

* * *

I petition to the court under Rule 65(c) of the Federals Rules of Civil Procedure a request for a TRO and protective order with a need also for the court to grant a immediate preliminary injunction.

I submit to the court truthful facts to support my need for this petition for emergency help and relief from the courts.

1. I've been brutally assaulted 3 different times in under an year time span. Dates are 4-27-96 & 2-7-97 & 3-23-97.

2. Each beating occurred on the security segregation housing unit (aka R-H-U) inside of this unit property storeage room (back room).

3. Each assault occurred on 2 to 10 pm shift. Time approx. 8:30 pm & 7:30 pm & 7:10 pm. All beating on my person was done with my hands cuffed behind my back.

4. Injuries and date: 4-27-96 lump on head, neck and back pain and trouble along with a dislocated shoulder that as of todays date 4-27-97, still spasms and slips out and sometimes back into the socket (permanent damage from beating and deliberate medical indifferences).

5. Injuries and date: 2-7-97 briused and swollen face and wrists (5 days swollened). Also with aggravated shoulder injury.

6. Injuries and date: 3-23-97 busted mouth that required 3 surgical stitches to close and also back pain, with aggravated shoulder injury permanently scarred (damaged).

* * *

I'm imploring to the Court to grant this TRO and preliminary injunction (to be transferred to any other prison for protective custody reasons) (To be free from beating and abuse of retaliation while the Courts consider my civil complaints)

Case cite ex: No adequate remedy at law (3 brutal beatings with irreparable injuries. "Danger of recurrent violations and danger of suffering more abuse along with further irreparable permanent injuries. Inmates of Attica v. Rockefeller, 453 F.2d 12, 23 (2d Cir. 1971).

I seek emergency relief for the purpose of saving my life and I'm asking to transferred to another prison for the duration of my civil complaint and if it please the courts a permanent transfer "to insure that the administrators whom faced with possible scrutiny by state officials (government) and the public and even the courts, where my basic fundamental, constitutional rights have been abridged at Smithfield Prison. Another state prison will act fairly. Recorded in this Affidavit for a show of cause for a emergency preliminary injunction and protective order including an TRO contains enough evidence of

a right to be transferred to a different prison under Pennsylvania Statutes or administrative regulations. I'm asking the courts to not leave me at the mercy of the Commonwealth Department of Corrections (Smithfield State Prison).

By leaving me at the mercy of Smithfield Prison, the court will also impose an atypical and significant hardship on me (condoning these senseless beatings) in relation to other prisoners in different state prisons ordinary incidents of prison life; for the 8th Amendment extend to the whole prisoner as a human being (assualts with waton infliction of mental anguish and stress. Also, retaliatory torture, torement, harrassment, punishment for the very purposes of causing prisoner harm (myself).

* * *

I've suffer 8 injuries at the hands of Smithfield staff along with two permanently damaged body parts.

neck, head, back, face, both wrists; permanently (lip = lump and scar also shoulder that comes out of socket almost on a daily bases.)

I've had my legal mail takened (copies sent to library for photocopying) and destroyed. My outgoing legal mail tampered with and not send out. Also my legal manual taken and witheld then given back. My legal mail openned not in my presense and then taped shut.

I'm not allowed any library time and not allowed to get help from law clinic workers or Jail house lawyers nor the library par-a-legal.

* * *

Sir: This officials known what's happened and what is continuiously happening to me Abuse, Beating, Indifferences, Conditions in segregation. I put forth here to the court that Smithfield uses malevolent touches (beatings) and turns a blind eye and a deaf ear to my safety, rights and life for I do fear that the next beating I may not live through; because they beaten upon me some much that they have no fear of ever being held accountible for their action. Please Your Honor, don't let Smithfield kill me, Sir. I've been abused and punished more than any law would allow.

* * *

Defendants in this petition and complaint

Booth v. Churner, (3-97-CV-611)

2 c/o Riekirt

3 c/o Kuhn

4 Sgt. Workensher

5 D.W. Morder

6 D.W. Biviano

7 Captin Tennis

8 Captin Gardner

9 Captin Glenny

10 Superintendent Morgan

Permanent Damage to lip (scar and lump)

Seeking in award total for nomial punitive exemplary and compensatory $400.000

Date 4-27-97 Timothy Booth (CN-3556)

* * *

AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS AND FOR APPOINTMENT OF COUNSEL AND PRELIMINARY INJUNCTION FOR PROTECTION

Filed May 7, 1997
[Caption Omitted in Printing]

* * *

3. The action seeks to enjoin those Defendants from (the wrongful actions giving rise to this suit) and seeks damages in the amount of (CV-611 = $400.000), (CV-630 = $300.000) (CV-629 = $300.000) for deprivation of plaintiffs civil rights (cases in Huntingdon Court (97-499 = $750.000).

* * *

Preliminary Injunction Support And Show of Causes

* * *

8. I have been assaulted 3 time in Smithfield Prison.

9. The 3 assaults occured on the security segregation unit.

10. The 3 assaults occured in under a year time dated assaults (1) 4-27-96. (2nd) 2-7-97. (3rd) 3-23-97.

11. Each assault occured at the 2 pm to 10 pm shift.

12. The times of these assaults (1st) 8:30 pm (2nd) 7:30 pm and (3rd) 7:10 pm

13. Each assault occured in the back of the property storeage room.

14. Each assault, beating, attack was inflicted on plaintiff whiled his hands were cuff behind his back.

15. Each assault was inflicted with an Smithfield correctional supervisor whom took part in each (3) beating. (1st) 4-27-96 Sgt. Robinson. (2nd) 2-7-97 Lt. Rikus (3rd) 3-23-97 Sgt. Workensher.

16. Each assault that occured I was seriously injured (1st) 4-27-96 lump on head slight concussion, neck pain, back pain and trouble, a dislocated shoulder with an torn rotary cup, shoulder is permanently damage from beating and also of today 4-30-97 it still slips out of its socket (delibrate medical indifferences. (2nd) Briused face that swolled for 5 days along with bruised and swollen wrists (pains for days) also re-injured my shoulder from the cuffs being pulled and twisted behind my back while on my wrists (2-7-97). (3rd) Busted mouth that took 3 surigical stiches to close wound (permanently scarred with lump in mouth. Back pain and re-injured shoulder. (3-23-97)

17. I had my legal mail opened not in my presene then taped shut, ex: one from Scranton Court, and A.C.L.F. and Pa. ins. law proj.

18. My mail not being sent out and legal mail taken.

19. Legal letter sent for coping destroyed.

20. Not allowed library time or any assistance from anyone; no par-a-legal, not allowing help from jailhouse lawyer or law library worker (inmate).

21. Abused for harm and suit (intentional infliction of pain/anguish.

22. Commissary taken and witheld.

23. Denied food.

24. Cleaning fluid thrown in face.

25. One officer beat me twice, Thomas, 4-27-96 and 2-7-97 and 3-23-97 was due to 2-7-97 retailition (complained and argue right).

26. Denied due process and wittiness in misconduct hearing.

27. Harrassed (suit).

28. Tortured and toremented (suit).

29. Punished (suit).

30. Had sign put on my door saying "cry baby" (internal stress).

31. Intentional blocking access to court.

32. Handcuffed and put in shower for an 1/2 hour.

33. Cuffs tightened, pulled back and up and twisted any lefted in that painful way for 1/2 hour.

I seek emergency relief by getting an court order protection transfer to any other prison for safety and lifed.

* * *

PETITION FOR AFFIRMATIVE ORDER "RECORDS"
ALSO RELIEF PLAINTIFF SEEKS

Filed May 19, 1997
[Caption Omitted in Printing]

* * *

Plaintiff asks to Courts to stop Smithfield Staff Retaliation on him also to stop the impairing of Plaintiff access to Court (no assistance to collect statement, in filing paper, no useage of R.H.U. Law Library and Tampering with outgoing and incoming legal mail.

* * *

4. 97-CV-00629 Plaintiff (Affirmative Order)

Damages $300.000 Relief

1. Request to interview wittiness for H.I unit and R-H-U along with general population on law library condition and useage.
2. Get statement for Jailhouse lawyer and law clinic worker
3. Have the Court to find Smithfield in contempted of court on Bounds v. Smith, Austin v. Depart. of Corr, Tillery v. Owens, condition
4. To upgrade inadequate segregation unit library and improve condition in segregation.
5. To expediate the hiring of mandated proffessional civilian par-a-legal (Hamilton v. Love, 358 F.Supp 338 (E.D. Ark 1973) = #1-5.

CONCLUSSION

A. Plaintiff ask to be transferred to any prison for protection against beating, abuse and conditions case ex:

Inmates of Attica v. Rockefeller; Danger of Recurrent Deprivation of Constitutional Rights. 3 Beating in under an year Times, with to permanent injuries.

B. Their is know remedy at law and for the two permanent injuries; there's not anything that the Prison (Smithfield et al Defendant) or the Court can do to ever repair the damages the Plaintiff suffered at the hands of the Defendants.

C. Plaintiff fear for life, statement to the court, (retaliation) well being, safety, and having access to the Courts blocked, abridge, tampered with (can not get copies of anything that sent (lost missing, Destroyed) hindering Plaintiff 4 Civil Action Law Suit by Smithfield officers civillian staff and top officals.

1. 97-CV-00499/710 Plaintiff Timothy Booth

Damages 750.000 Relief

Request an Affirmative Order to get Smithfield to release Disclosure and Discovery Records.

* * *

2. 97-CV-00611 Plaintiff Timothy Booth

Damages 400.000 Relief

Requesting an Affirmative Order to get Smithfield to Release for Disclosure and Discovery (Record)

* * *

3. 97-CV-00630 Plaintiff Timothy Booth

Damages $300.000 Relief

Requesting an Affirmative order to get Smithfield to release for Disclosure and Discovery Records

* * *

PLAINTIFF PETITION TO SHOW CAUSE FOR
1. APPOINTMENT OF COUNSEL
2. TO KEEP TOP OFFICIALS AS DEFENDANTS
3. AMENDMENDING RELIEF PLAINTIFF SEEKS

Filed May 19, 1997

* * *

1. Relief seeking from Courts - 00499-710

A. Any injunction to stop the continuous beating (4-27-96 1st)

B. Affirmative order to get operation

C. Transferred to any other for protection

D. Appointment of counsel to take over, four Civil Actions Suits

E. Money damages $750.000 (permanent damage injury.

No remedy at law: 4-27-96

2. Relief from Courts - 00611

A. Appointment of counsel

B. Transferred out of Smithfield, danger of recurrent violation (Beating 3rd 3-23-97)

C. Any injunction to help Plaintiff; so that the prisoner will not be beaten again

D. Money Damages $400.000 (permanent scarring, lump

No remedy at law 3-23-97

3. Relief from Courts – 00630

A. Appointment of counsel

B. Transferred out of Smithfield permanently (re-current violation (3 beatings in under year time)

C. money damages $300.000

No Remedy at Law 2-7-97

4. Relief from Courts – 00629

A. Affirmative order ex purpose (improve R-HU Law Library. 2 allow inmates law clinic worker in segreg. Law library. Also Jailhouse law library R-H-U fine Smithfield officials in contempt of Court in Austin v. Dept. of Correction. (Par-a-legal) Affirmative order hire par-a-legal, award plaintiff an thousand days a that Top official been in contempt. (3-1-97)

Money Damages $300.000 conditions.

No remedy at law. The prison and Defendant can never repair the damages or repay it by the Courts.

* * *

PLAINTIFF AMENDMENT TO SPECIFIC RELIEF

Filed May 20, 1997
[Caption Omitted in Printing]

1. Protective order to be transferred to any other jail

2. Preliminary Protection injunctions to be transferred to any other prison to stop these beating.

* * * *

6. Permanent injunction to be removed from Smithfield

7. Awarded damages $400.000 for nom. pun. exemp. and compens.

* * *

Mental Stress
And
Anguish

On 3-23-97

I and my cell partner were asked if we wanted to go to the R-H- U inadequate law library. We said yes to this offer because you only get to go once a month for an hour at the most. At 9:40 pm officer Chuner, Kuhn and Reikirt, Sgt. Workensher cuffed our hands behind our backs then he put me into the shower so that my cell partner could be stripped searched. I want to say that I'd ask my cell partner where he was searched that's in the front part of the storeage room where they hold hearing A.K.A. The Sodume and gormora inquisition chamber.

I was taken into the back part of the storeage room. There was four correctional officers in there. I was told to face the cabinet. I did what I was told and officer Churner started to unfasten my cuff on the right hand. He asked if I spit on Officer White on another unit. I said no and I wasn't write up for spitting on him I threw water I think c/o Riekirk told c/o Churner this. Either and Riekirk was on vacation and came back then passed on wrong hearsay.

As I said c/o Churner asked this question and I answered negative. He then punched me in my mouth. I slumped somewhat from this punched and Kuhn rushed me and put me into a choke hold, then forced me down onto the floor Sgt. Workensher grabbed my arms. Then twisted my arm to cuff the one that was lose (the Left one was still on. I'd my mouth busted open for no Reason at all. No arguing or asking for anything at all. This maleviolent and Barbaric assault and beating was for retaliation purpose because of a lying c/o staff member who had his story wrong (Riekirt or Either LT. Rikus). I'm in mortal fear for my life here. 3 beating is enough. 4-27-97, 2-7-97 and this 3-23-97 Please I'm stressed because of abuse and conditions here in the R-H-U (segregation) and Smithfield When is enough beating enough The staffs say when I'm dead" They ask you were do you want your body sent.

Somerset, waynemart please send me before they kill me; intentional infliction of pain and mental anguish; These have been and is still given to me on a daily bases.

* * *

Dr. Yen don't give a hoot; say as much to me about Help. Medication and Milk not any kind of therapy for the intentional stress and anguish the staff has and is inflicting on me.

Dated 4-30-97

* * *

PETITION FOR EMERGENCY INJUNCTION AND SHOW OF CAUSES FOR TEMPORARY RESTRAINING ORDER

Filed June 18, 1997
[Caption Omitted in Printing]

Plaintiff whoms Petitioning Pro-se Respectfully prays that this Court grants him immediate and emergency help; with relief by issuing a Temporary Restraining Order against all Defendants in this suit along with their successors in office, agents and all other persons that's in active concert and participating in such manners that will be foremetioned.

Plaintiff comes expeditiously to the Courts for protection by pleading for a preliminary injunction to be issued against his Defendants and other prison employees that are in active concert against Plaintiff. These Defendants are participating in crule harassment, punishing sadistically and blanton theartening Plaintiff with more physical violence; these retaliatory continuous actions are because of Plaintiff civil action suit.

* * *

Plaintiff seeking a remedy from all the Defendants would be meritless, frivolous, and in vain because of the Denial of Protection or help from Plaintiff Top Officials Defendants are continuously reconcurrent

* * *

Plaintiff state to the Courts there is no remedy at law; two parts irreparable injuries 1st permanent scarring and lump from the malicious beating itself.

* * *

Plaintiff ask the Court to Transfer him for Protection from further abuse.

* * *

Plaintiff has had his legal mail oppened not in his presence repeatedly by Defendants and other prison employees.

* * *

Plaintiff has shown to the Court in this Show of Cause and Petition for T.R.O. and a Emergency preliminary injunction that the state prison Smithfield and all of the Defendants in this Civil action Suit have blatonly and malicously violated his legal constitution rights. (All Exhibits). and are all in concert to do everything that unconstitutional to hinder Plaintiff access to your Courtroom.

* * *

Plaintiff cites Bound v. Smith 430 U.S. 817 (1977) at 824-825 indigent inmates must be provided at state expense with paper (not given-denied) and pen (what good is it without paper) to draft legal documents and stamps to mail them out. Please refer T Exhibit B-2.

Plaintiff cannot send anything to be copied because Defendants and other employee destroy any that sent back from library. Plaintiff sent letter for copying; consisting fact and statements of beating. This letter was going to be sent to Scranton Times and the U.S. Todays newspaper Citation Procunier v. Martinez 416 U.S. 396 (1974)

at 413) Prison officials may not censor inmate correspondence simply to eliminate unflattering or unwelcome statements and Mujahid v. Summers, 807 F.Supp 1505 (D. Hawaii 1992)

Plaintiff pleads to the Courts to be transfer for protection and to put a stop to this abuse. For the in no remedy at law and when Plaintiff is vindicated. Their is absolutely nothing the Court can do to adequately repair or repay him for his pain and suffering citation

* * *

Compensatory, nomial, punitive and exemplary.

* * *

MOTION TO AMEND COMPLAINT

Filed July 7, 1997
[Caption Omitted in Printing]

I Plaintiff in the Brutality Civil Suit of Crule and Unusual punishment would like to add correctional officer Broombaugh as a Defendant due to set forth civil rights violation on the night of 6-23-97 officer Kuhn which is already a Defendant in this case and officer Broombaugh shoved me face first into the outside of cell 115 (inmate Tyrone Wright CS 2448 cell 115) Door twice and proceeded to tighten the cuff to the maxium for torture and punishment. This assault was done for retaliation purpose to cause me intentional pain and suffering.

I Plaintiff has repeatedly seeked help from the Court for protection by transfer to any other prison for the duration of my case 3:97-CV-0611 and other two Brutality Civil Suits 3:97-CV-0710 and 3:97-CV-0630. But help from the Court is not forthcoming. I was in this case beaten 3:97-CV-0611 by officer Churner, Kuhn, Riekirt, Sgt. Workensher on 3-23-97 then to be assaulted on 6-23-97 by officer Broombaugh and Kuhn again is to much while Sgt. Workensher looked on and Captin Gardner stood in the guard both and watched.

* * *

I Plaintiff asked the Top prison offices for protection on 2-9-97 and was denied and was beaten again on 3-23-97 and asked for help again on 6-21-97 and was beaten again on 6-23-97. I plead to the Courts to transfer me out of Smithfield to stop these senseless criminal Civil Rights Violation Beatings.

I Plaintiff can get no remedy of Protection from Top prison officials. Because they are also Defendants in this case and other civil rights cases against them no good faith in Beating and Denial of Protection against further Beatings.

* * *

Plaintiff state that if the Court do not transfer him he will be beaten again by Defendants. I've Been Denied showers, food, usage of mini-law library. I've also had legal mail taken, destroyed, opened and pre-read not in my presence then resealed, commissary taken and denied. Furthermore I've Been Beaten Twice By one Defendant and have had their supervisor help and watch my Being Beaten.

I Plaintiff seek an permanent award damage in this Civil Case for the amount of 1.400.000.00 on (3:97-CV-0611) and an Emergency Transfer for Duration of these Suits.

* * *

[Grievance, dated June 21, 1997, attached as Exhibit to Motion to Amend Complaint]

DC-804
PART 1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. Box 598
Camp Hill, PA 17001-0598

[Handwritten notes: Support for transfer request protection and is denied; request for protection on 6-21-97 beaten again on 6-23-97]

OFFICIAL INMATE GRIEVANCE	GRIEVANCE NO. SMI-286-97
TO: GRIEVANCE COORDINATOR Ms. Burks	INSTITUTION SCIS
	DATE 6/21/97
FROM: (Commitment Name & Number) Timothy Booth CN-3556	INMATE'S SIGNATURE /s/ Timothy Booth

* * *

A. Brief, clear statement of grievance:

I've been denied repeatedly shower, food, library usage, mail tampered with legal letter (material destroyed because of my civil action suit against Robinson, Thomas, Rikus, Churner, Workensher, Kuhn, Riekirt, Weaver, Knott, Morder, Biviano, Morgan, Tennis, Glenny, Gardner, I've been bogusly written up, harrassed, punished, toremented, retaliated against. I want protection (2 to 10 pm shift will either beat me again or kill me. I'm in fear for my life, 3 beating is enough and the top offical (your boss knews. (Remember denied me protection after 2-7-97

beating and I was beaten again, 3-23-97, because of this denial) move me away from, Workensher, Kuhn, Churner - suggest 3 block as protective custody

B. Actions taken and staff you have contacted before submitting this grievance:

I written to you and you didn't care then and your not a defendant. So help me to be free from abuse and beating

Your grievance has been received and will be processed in accordance with DC-ADM 804.

/s/ Sharon M. Banks — 6/25/97
Signature of Grievance Coordinator — Date

[Grievance, dated June 23, 1997, attached as Exhibit to Motion to Amend Complaint]

DC-804
PART 1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. Box 598
Camp Hill, PA 17001-0598

[Handwritten note: Recurrent brutality beaten again after being denied protection]

OFFICIAL INMATE GRIEVANCE	GRIEVANCE NO. SMI-286
TO: GRIEVANCE COORDINATOR Ms. Burks	INSTITUTION SCIS
	DATE 6/23/97
FROM: (Commitment Name & Number) Timothy Booth CN-3556	INMATE'S SIGNATURE /s/ Timothy Booth

* * *

A. Brief, clear statement of grievance:

On 6-23-97 while c/o Broombaugh took my cell partner belonging to him. I had my cuffs that were on tighten to the maxium, I had my face shoved in to the next cell door; because i fasted and my food (two hot dog were taken) I complained. Broombaugh and Kuhn face shoved, messed harshly and the handcuffs tighten. After it was over I put my cigg. out of the door to get a light Sgt. Workensher took my cigg and give it to my old cell partner and while he took the two hot dogs and cake, he took 2 of my legal letters (I wan't protection 4 time physical abused

B. Actions taken and staff you have contacted before submitting this grievance:

Ask you for protection was denied, look why not move me. DC-ADM004 for my saftey from beating. Beaten on 1. 4-27-97, 2. 2-7-97, 3. 3-23-97, 4. 6-23-97 E Blk Before I'm killed by my defendants.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

/s/ Sharon M. Banks — 6/25/97
Signature of Grievance Coordinator — Date

POLICY STATEMENT
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

Policy Subject:
Consolidated Inmate Grievance Review System

Policy Number:
DC-ADM 804

Date of Issue:	Authority:	Effective Date:
July 20, 1994	Joseph D. Lehman Commissioner	October 20, 1994

I. AUTHORITY

The Authority of the Commissioner of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506 and 901-B of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. PURPOSE

It is the purpose of this Administrative Directive to establish policy regarding the Consolidated Inmate Grievance Review System and to ensure that inmates have an avenue through which resolution of specific problems can be sought.

This directive sets forth procedures for the review of Inmate Grievances not already covered by other Administrative Directives and policies. It also provides the method through which review procedures established by other directives are to be integrated with the procedures outlined in this directive.

III. APPLICABILITY

This policy is applicable to all employees of the Department of Corrections and all inmates under

the jurisdiction of the Department of Corrections and to those individuals and groups who have business with or use the resources of the Department of Corrections.

IV. DEFINITIONS

A. Grievance –

The formal written expression of a complaint submitted by an inmate related to a problem encountered during the course of his/her confinement.

B. Grievance Coordinator –

The Corrections Superintendent's Assistant in an institution or the Assistant to the Regional Director in Community Corrections who is responsible for the overall administration of the Inmate Grievance System in that facility/region. This includes all data collection, tracking and statistical reporting. At the direction of the Facility Manager or Community Corrections Regional Director, the Grievance Coordinator may be called upon to provide Initial Review of certain grievances.

C. Grievance Officer –

An appropriate Department Head or Management Level staff person designated by the Facility Manager or CC Regional Director to provide Initial Review of an inmate grievance arising from his/her specific area of responsibility, e.g., a Unit Manager would be assigned to provide Initial Review of a grievance from the housing unit. If the grievance arises from the Food Services Area, the Grievance Officer designated by the Facility Manager shall be the Food Services Manager,

likewise, the Corrections Health Care Administrator would be the Grievance Officer for a grievance related to a Health Care issue.

D. Central Office Review Committee (CORC) –

A committee of at least three (3) Central Office staff appointed by the Commissioner of Corrections to include the Commissioner, Executive Deputy Commissioner and Chief Counsel or their designees.

With the exception of appeals from disciplinary action under DC-ADM 801 and appeals arising from Health Care or medical treatment grievances, the CORC shall have responsibility for direct review of all Inmate Appeals for Final Review.

E. Central Office Medical Review Committee (COMRC) –

A Committee appointed by the Commissioner to include the Director of the Bureau of Health Services and relevant Bureau staff. The COMRC shall have responsibility for direct review of grievance appeals related to Health Care and medical treatment issues.

F. Initial Review –

The first step in the formal Inmate Grievance Process for all issues except those already governed by other specified procedures (see VI E). All reviews conducted below the level of Facility Manager or Regional Director are considered initial reviews.

G. Appeal from Initial Review –

The first level of appeal of a decision rendered at Initial Review. This appeal is directed to the

Facility Manager or Community Corrections Regional Director.

An appeal of the Initial Review decision on a grievance related to a Health Care or Medical issue shall be submitted directly to the COMRC at Central Office.

Only issues raised at Initial Review shall be appealed.

H. Final Review –

Upon completion of Initial Review and appeal from Initial Review, an inmate may seek Final Review from the Central Office Review Committee (CORC), for any issue involving continued non-compliance with Department of Corrections directives or policy, the ICU Consent Decree or other law.

V. POLICY

A. It is the policy of the Pennsylvania Department of Corrections that every individual committed to its custody shall have access to a formal procedure – the Consolidated Inmate Grievance Review System – through which the resolution of problems or other issues of concern arising during the course of confinement may be sought. For every such issue there shall be a forum for review and an avenue of appeal, but only one.

B. Informal Resolution of Problems – All inmates are expected to attempt to resolve problems or differences with staff on an informal basis through direct contact or by sending a request slip to appropriate staff. Action taken by the inmate to resolve the situation must be indicated on the grievance form, Section B.

The Grievance Form, DC 804, Part I, is available in each Housing Unit or upon request from Unit staff. This is the proper form to be used for submission of a grievance and it should be completed according to the directions provided.

It is required that a genuine effort be made to resolve the problem before the grievance system is used. The inmate must document these efforts in Section B of the Grievance Form. Failure to do so may result in the grievance being returned to the inmate without action. The inmate may then refile the grievance with Section B properly completed.

C. Any inmate using the grievance system shall do so in good faith and for good cause.

No one shall be punished, retaliated against or otherwise harmed for good faith use of this grievance system.

Deliberate misuse of the grievance system may result in restricted access or disciplinary action, at the discretion of the Facility Manager.

D. It is the intent of the Department of Corrections to provide for an accelerated review of appeals of grievances related to medical issues. For this reason, the inmate is permitted to appeal a medical grievance to the Central Office Medical Review Committee for Final Review directly from Initial Review. See VI., C.1.

E. The Inmate Grievance Review System is intended to deal with a wide range of issues, procedures or events which may be of concern to inmates. It is not meant to address incidents

of an urgent or emergency nature. When faced with such an event, the inmate should contact the nearest staff member for immediate assistance.

VI. PROCEDURES

A. A Grievance shall be submitted to the Grievance Coordinator in the following manner.

1. All grievances shall be in writing and in the format provided on the forms supplied by the institution (DC 804 Part 1). See Section V., B.

2. All grievances shall be presented individually. Any grievance submitted by a group of inmates will not be processed, however, if the Grievance Coordinator believes that the issue being grieved is legitimate, it will be referred to appropriate Management Staff for review.

3. Only an inmate who has been personally affected by a Department or institution action or policy shall be permitted to seek review of a grievance or appeal. The inmate grievant must sign the grievance or appeal.

4. All grievances and appeals must be presented in good faith. They shall include a brief statement of the facts relevant to the claim. The text of the grievance must be legible and presented in a courteous manner. The inmate should identify any persons who may have information which could be helpful in resolving the grievance. The inmate may also specifically state any claims he/she wishes to make concerning

violations of Department directives, regulations, the ICU Consent Decree or other law. The inmate may request to be personally interviewed prior to the decision on Initial Review. Any inmate who submits a grievance containing false and malicious information may be subject to disciplinary action.

5. Grievances and appeals based on different events should be presented separately, unless it is necessary to combine the issues to support the claim. The Grievance Officer may combine multiple grievances which relate to the same subject.

   NOTE: At any point in the grievance process, the inmate has the right to withdraw the grievance.

B. Initial Review

1. Initial Review Procedures must be completed before Appeal from Initial Review or Final Appeal may be sought. Any claims of violation of the ICU Consent Decree must be raised through this grievance procedure before they may be addressed by any court.

2. Grievances must be submitted for initial review to the Facility/Regional Grievance Coordinator within fifteen (15) days after the events upon which the claims are based. Extensions of this time period may be granted by the Facility Manager/ Regional Director for good cause.

3. The Grievance Coordinator will forward the grievance to the appropriate Grievance Officer for investigation and resolution.

The inmate grievant and other persons having personal knowledge of the subject matter may be interviewed. A grievant who has requested a personal interview, shall be interviewed.

4. Within ten (10) working days of receipt of the grievance by the Grievance Officer, the grievant shall be provided a written response to the grievance to include a brief rationale, summarizing the conclusions and any action taken or recommended to resolve the issues raised in the grievance.

   The Grievance Coordinator may authorize an extension of up to an additional ten (10) working days if the investigation of the grievance is pending. If an extension is necessary, the grievant shall be so advised in writing.

C. Appeal from Initial Review

1. An Initial Review Decision of a grievance on a Health Care or medical treatment issue may be appealed directly to the Central Office Medical Review Committee for Final Review within five (5) days of receipt by the inmate of the Initial Review decision. A grievance for which the Corrections Health Care Administrator conducted the Initial Review will usually be considered a Medical Grievance.

   All other appeals will be submitted as follows.

2. An inmate may appeal an initial review decision to the Facility Manager or Community Corrections Regional Director in writing, within five (5) days from the date

of receipt by the inmate of the Initial Review decision. The inmate must appeal in this manner prior to seeking Final Review. Only issues which were raised for initial review may be appealed.

3. All appeals must conform to the requirements specified in Section VI A of this directive. The appeal must clearly identify the decision appealed from and all reasons for appeal. Only one appeal from any initial review decision will be permitted.

4. The Facility Manager or Regional Director must notify the inmate of his/her decision within ten (10) working days after receiving the appeal. This decision may consist of approval, disapproval, modification, reversal, remand or reassignment for further fact finding, and must include a brief statement of the reasons for the decision.

D. Final Review

1. Any inmate who is dissatisfied with the disposition of an Appeal from Initial Review decision may, within seven (7) days of receiving the decision, appeal any issue related to non-compliance with the ICU Consent Decree, other law, Department directive or policy, for final review. Only issues raised at the Initial Review and Appeal level may be referred for Final Review.

2. Final Review will not be permitted until the inmate has complied with all procedures established for Initial Review and Appeal from Initial Review. Exceptions may be made for good cause.

3. Final Review of all appeals will be sent directly to the CORC except the following:

   a. Medical Grievances which will be reviewed by COMRC.

   b. Requests for Final Review of appeals from disciplinary actions which were processed through DC-ADM 801. These will be reviewed by the Office of the Chief Counsel which may respond directly to the inmate or refer the appeal to the Central Office Review Committee (CORC) for further reviews.

The address of the CORC/COMRC is:

PA Department of Corrections
Central Office Review Committee
PO Box 598/2520 Lisburn Road
Camp Hill, PA 17001-0598

4. Request for Final Review must clearly identify the decision appealed from and all reasons for appeal. Only one appeal from any second level (Appeal from Initial Review) decision will be permitted.

5. The CORC/COMRC, or any member thereof, may require additional investigation to be made prior to a decision on a Final Review appeal.

6. The CORC/COMRC will review all issues properly raised according to the above procedures. It may also review and consider any other related matter.

7. For all Appeals receiving Final Review, the CORC/COMRC will issue its decision

within twenty-one (21) days after receipt of an appeal. The decision may consist of approval, disapproval, modification, reversal, remand or reassignment for further fact finding, and must include a brief statement of the reasons for the decision. The committee shall notify the grievant and Facility Manager/Regional Director of its decision and rationale.

8. The Chief Counsel will notify counsel for the ICU class of disposition by the CORC/COMRC of any matter raised on Final Review alleging a violation of the ICU Consent Decree.

E. Exceptions

Initial Review and Appeal from Initial Review of issues related to the following Administrative Directives shall be in accordance with procedures outlined therein, and will not be reviewed by the Grievance Officer or Grievance Coordinator.

1. DC ADM 805 – Policy & Procedures for Obtaining Pre-Release Transfer.

2. DC ADM 801 – Inmate Disciplinary and Restricted Housing Unit Procedures. See DC-ADM 801 VI., G & I

3. DC ADM 802 – Administrative Custody Procedures. See DC-ADM 802, VI, B, 1,2. Appeal from Initial Review, see DC-ADM 802, VI, B, 4, a.

4. DC-ADM 814 – Incoming Publications

See 814-IIIB, Appeal from Initial Review, see 814-IIID

Additionally, there may be other kinds of issues for which Initial Review Procedures have been previously established by Administrative Memorandum or Policy Statement.

F. Admissions and Review

1. All proceedings pursuant to this directive are in the nature of settlement negotiations and will, therefore, be inadmissible before any court or other tribunal in support of any claim made against the Commonwealth or any employee. No resolution of any grievance offered as a result of this procedure shall be admissible before any court or other tribunal as an admission of violation of the ICU Consent Decree or any State or federal law.

2. No decision rendered as a result of the processing of a grievance shall be reviewable by any court unless it establishes a system or institution-wide violation of the decree.

G. Completion of Review After Transfer

Any inmate who is transferred after the filing of a grievance or appeal, but prior to the completion of the appeal process, may continue to pursue the grievance or appeal by notifying the Facility Manager or Regional Director of the facility in which confined when the grievance was filed. Adjustments in the various time limitations may be made to facilitate review.

VII. SUSPENSION DURING EMERGENCY

In an emergency situation or extended disruption of normal institutional operation, any provision or

section of this policy may be suspended by the Commissioner or his/her designee for a specific period of time.

VIII. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility so as to be consistent with law and to permit the accomplishment of the purpose of the policies of the Department of Corrections.

IX. SUPERSEDED POLICY AND CROSS-REFERENCE

This directive revises the Inmate Grievance System (DC-ADM 804, May 1, 1984), and supersedes the pilot grievance system in effect at selected DOC institutions. It does not supersede or repeal any portion of any other directive or policy statement. Where this directive is inconsistent with any other directive or policy, both shall be interpreted so as to provide full review of all issues raised, consistent with the scope and purpose of this directive. Conflicts will most frequently occur at the Initial Review level, where other directives establish committees to review specific issues.

Cross References: DC-ADM 801, DC-ADM 802
ACA Cross References: 3-4271

cc:
Executive Deputy Commissioner Reid
Deputy Commissioner Clymer
Deputy Commissioner Fulcomer
Acting Deputy Commissioner Beard
All Superintendents
CCC Directors (4)
File

/Joseph D. Lehman/
Joseph D. Lehman,
Commissioner

BULLETIN
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

To: Superintendents
Boot Camp Commander
Regional Directors
Executive Staff

Policy Subject:
DC-ADM 804
Consolidated Inmate Grievance Review System
Policy Number: DC-ADM 804-1
Policy Issue Date: July 20, 1994

Date of Issue:	Authority:	Effective Date:
April 2, 1996	/Martin Horn/	May 20, 1996

The purpose of this Bulletin is to include medical grievances in the regular grievance process and to discontinue the Central Office Medical Review Committee (COMRC).

It is important that the Superintendent be aware of all functions within the institution. Similarly, it is essential that the Bureau of Health Care Services be included in the CORC process, to include review by the Chief Counsel's office with respect to medical grievances. Therefore, all grievances, including those relating to medical issues, are to be processed in the same manner. The grievance coordinator will continue to forward medical grievances to the CHCA for initial review. Then, the Superintendent will be responsible for the Appeal from Initial Review, as for all other grievances.

Final Appeal of medical grievances will no longer be forwarded to the COMRC. The Central Office Review Committee (CORC) will process the appeals. The Director

of the Bureau of Health Care Services, or designee, will participate as a member of CORC for all medical grievance appeals.

The following sections of DC-ADM 804 are to be discontinued:

IV.E.: Definition of COMRC

IV.G.: "An appeal of the Initial Review decision on a grievance related to a Health Care or Medical issue shall be submitted directly to the COMRC at Central Office.

V.D.: "It is the intent of the Department of Corrections to provide for an accelerated review of appeals of grievances related to medical issues. For this reason, the inmate is permitted to appeal a medical grievance to the Central Office Medical Review Committee for Final Review directly from Initial Review."

BULLETIN
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

To: Executive Staff
Superintendents
Regional Directors

Policy Subject:
Consolidated Inmate Grievance Review System
Policy Number: DC-ADM 804-2
Policy Issue Date: July 20, 1994

Date of Issue:	Authority:	Effective Date:
October 1, 1997	/Martin Horn/	November 1, 1997

The procedures for appeal to final review under DC-ADM 804, VI, D, 5-7, are amended as follows:

(1) The Chief Hearing Examiner will replace the Central Office Review Committee (CORC) at final review of all grievance appeals. The Chief Hearing Examiner will perform all functions previously performed by CORC.

(2) In reviewing grievances submitted for final review, the Chief Hearing Examiner will review the initial grievance and response, any appeals therefrom and the responses thereto and the issues appealed to final review.

(3) The Chief Hearing Examiner will review health care related grievances with the Bureau of Health Care. Appeals raising legitimate legal issues, including but not limited to access to courts and sentencing issues, will be reviewed with an attorney prior to response.

(4) Upon completion of final review, the Chief Hearing Examiner will respond directly to the inmate in all

cases where the position taken by the institution is upheld.

(5) In all cases where the action of the Grievance Coordinator, PRC, Incoming Publication Review Committee, or Superintendent is reversed or amended, or where a matter is remanded, the Chief Hearing Examiner will prepare a letter to the inmate and a memorandum to the Superintendent. The Chief Hearing Examiner will forward the letter and memorandum to the appropriate Regional Deputy Commissioner for review and signature.

(6) The Chief Hearing Examiner will be responsible for assuring that:

(a) appeals to final review are responded to in a timely fashion;

(b) records pertaining to such appeals are maintained properly; and

(c) counsel for the ICU class is notified of the disposition at final review of any matter raised to final review alleging a violation of the ICU vs Shapp Consent Decree.

It is the intent of the Department of Corrections to provide inmates with a complete and timely review of all appeals properly raised to final review. These amendments have been established to ensure timeliness at final review while continuing to provide a thorough, impartial review of the issues.

BULLETIN
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

To: Executive Staff
Superintendents
Regional Directors
Boot Camp Commander

Policy Subject:
Consolidated Inmate Grievance Review System
Policy Number: DC-ADM 804-3
Policy Issue Date: July 20, 1994

Date of Issue:	Authority:	Effective Date:
October 21, 1997	/Martin Horn/	November 1, 1997

The purpose of this bulletin is to facilitate timely responses from the Chief Hearing Examiner's Office to all appeals to final review.

(1) All appeals to final review should be addressed to the Chief Hearing Examiner,

Chief Hearing Examiner
1451 S. Market Street
Elizabethtown, PA 17022

Appeals which are addressed to the Commissioner, Chief Counsel, to other Central Office staff, are of course, delivered to these individuals first, then have to be referred to the Chief Hearing Examiner. Improperly addressed appeals may cause a delay in the response to final appeal.

(2) Inmates appealing to final review are responsible for providing the reviewing body with any available paperwork relevant to the appeal. A proper appeal to final

review should include photocopies of the initial grievance, initial grievance response, and the Superintendent's response. Appeals without proper records will be reviewed, but the review will be delayed until the appropriate paperwork can be obtained.

BULLETIN
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

To: Executive Staff
Superintendents
CCCRegional Directors
Boot Camp Commander

Policy Subject:
Consolidated Inmate Grievance Review System
Policy Number: DC-ADM 804-4
Policy Issue Date: July 20, 1994

Date of Issue:	Authority:	Effective Date:
April 29, 1998	/Martin Horn/	May 1, 1998

The purpose of this bulletin is to amend the section VI. Procedures, A.4. to read,

"All grievances and appeals must be presented in good faith. They shall include a brief statement of the facts relevant to the claim. The text must be legible and presented in a courteous manner. The Grievant should identify any persons who may have information which could be helpful in resolving the grievance. The Grievant may specifically raise any claims concerning violations of Department of Corrections directives, regulations, court orders, or other law. The Grievant may also include a request for compensation or other legal relief normally available from a court. The inmate may request to be personally interviewed at initial review. Any inmate who submits a grievance containing false information may be subject to disciplinary action. Inmates who have not already completed final review may request compensation or legal relief on appeal to final review."

And to amend Section VI. Procedures, B. Initial Review, 2. To read:

"Grievances must be submitted for initial review to the Facility/Regional Grievance Coordinator within fifteen (15) days after the events upon which the claims are based. Extensions of this time period may be granted by the Facility Manager/Regional Director for good cause. Such extensions will normally be granted if the events complained of would state a claim of violation of federal right.